

Internal Revenue Service

Department of the Treasury

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Date 4-8-97

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

Date: FEB 26 1997

Employer Identification Number:
Key District:

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(7). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

The information provided indicates that you were incorporated under the laws of the state of [redacted] on May 10, 1993. Your purposes, as stated in your Articles of Incorporation, are "to promote seamanship and navigation and to provide and maintain a suitable clubhouse and anchorage for the use and recreation for [your] members."

You plan to provide social and recreational activities for your members including yacht races, cruises, and barbecue picnics. You will maintain a clubhouse, swimming pool, and tennis courts for social and recreational activities, and will provide your members with boat slips for anchorage purposes. The clubhouse, swimming pool, tennis courts, and boat slips are currently leased from [redacted].

Financial support will be provided by boat slip rentals from members as well as by membership dues and assessments.

Pursuant to your Articles of Incorporation and By-laws, you have four classes of members:

Class A - Members who dock their boats in slips rented from you and who are not residents of [redacted];

Class B - Members who dock their boats at slips rented from you and who are residents of [redacted];

Class C - Members who do not dock their boats at slips rented from you and who are residents of [redacted];

[REDACTED]

Class D - Members who maintain "inactive" membership by making special arrangements with the Board of Directors.

Your affairs are governed by a Board of Directors consisting of five persons. One director is elected by the Class A members and one is elected by the Class B members; two directors are appointed by [REDACTED] and one director is the "property owner," [REDACTED]

[REDACTED], a for-profit Corporation established in 1992, will manage the day to day activities of the Club in accordance with the terms of a management contract. [REDACTED] is owned by [REDACTED]. [REDACTED] its sole director.

Section 501(c)(7) of the Code provides for the exemption from federal income tax of clubs organized and operated for pleasure, recreation, and other nonprofitable purposes substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Rev. Rul. 65-219, 1965-2 C.B. 168, considered an organization that was incorporated as a nonprofit corporation for the purpose of establishing and maintaining a swimming club, for the social, athletic, and recreational benefit of the members. Soon after its incorporation, the club entered into a license agreement with its resident agent, whereby the resident agent agreed to pay for the construction of an olympic-size pool for exclusive club use, on a tract of land which he had leased. The agreement permits the club to use the property as a licensee for a period of 20 years, with an option to renew for an additional 20 years. In addition to undertaking the expense of constructing the pool, the licensor agreed to manage the club and to secure memberships. The Rev. Rul. concludes that the club is operated as a commercial venture for the financial benefit of the licensor and, therefore, is not exempt under section 501(c)(7) of the Code.

Rev. Rul. 66-225, 1966-2 C.B. 227 considered a nonprofit club formed by the owners of a motel. The club's articles of incorporation state that its purpose is to operate a private club for its members and to provide entertainment, food, and refreshment for them. The clubhouse with all fixtures and equipment is leased by the organization from the motel for a nominal fee, but the motel retains the exclusive right to serve food and other beverages to the club's members. The club has no net worth. Its income is received from membership dues and fees. Practically all of the organization's income is spent for entertainment. The motel serves the club's patrons from its own

[REDACTED]

restaurant which also adjoins the motel. The Rev. Rul. concludes that the club is operated as an integral part of a motel and restaurant business and, therefore, is not exempt under section 501(c)(7) of the Code.

The information submitted indicates that the composition of a majority of your five-member Board of Directors is controlled by [REDACTED] by virtue of his permanent seat on the Board and his ability, via [REDACTED] to appoint two others. In addition, your facilities are owned by [REDACTED] and managed by a for-profit entity owned by [REDACTED]. Under these circumstances, you will be operated as an integral part of commercial ventures for the ultimate financial benefit of [REDACTED]. Applying Rev. Ruls. 65-219 and 66-225, you are not organized and operated for nonprofitable purposes within the meaning of section 501(c)(7) of the Code.

In addition, since your lease with [REDACTED] and your management agreement with [REDACTED] were not negotiated at arm's length, we are unable to conclude that your net earnings will not inure to the benefit of private individuals in contravention of section 501(c)(7) of the Code.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(7) of the Code and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district office. Thereafter, any questions about your federal income tax status should be addressed to that office.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

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[REDACTED]

Internal Revenue Service
Attn: [REDACTED]
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
[REDACTED]

[REDACTED] [REDACTED]

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